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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/057,660	01/25/2002	Karlheinz Bortlik	88265-6773	4348

28765 7590 09/08/2004

WINSTON & STRAWN
PATENT DEPARTMENT
1400 L STREET, N.W.
WASHINGTON, DC 20005-3502

EXAMINER

DAVIS, RUTH A

ART UNIT	PAPER NUMBER
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1651

DATE MAILED: 09/08/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

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10/057,660

01/25/2002

BORTLK, KARLHEINZ

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Commissioner for Patents

The amendment filed on July 8, 2004 canceling all claims drawn to the elected invention and presenting only claims drawn to a non-elected invention is non-responsive (MPEP § 821.03). The remaining claims are not readable on the elected invention because the methods for (I) increasing bioavailability of a lipophilic compound; and (II) providing increased photostability and oxidations resistance to a lipophilic compound, are inventions which are not connected in design, operation, and/or effect to the originally presented invention of a lipophilic compound composition. These methods are independent since they are not disclosed as capable of use together, they have different modes of operation, they have different functions, and/or they have different effects. One would not have to practice the various methods at the same time to practice just one method alone.

It is noted that Applicant cannot file an RCE to obtain continued examination on the basis of claims that are independent and distinct from the claims previously claimed and examined as a matter of right (i.e. applicant cannot switch inventions). See 37 CFR 1.145 and (MPEP 706.07(h), (VI)).

Since the above-mentioned amendment appears to be a bona fide attempt to reply, applicant is given a TIME PERIOD of ONE (1) MONTH or THIRTY (30) DAYS, whichever is longer, from the mailing date of this notice within which to supply the omission or correction in order to avoid abandonment. EXTENSIONS OF THIS TIME PERIOD UNDER 37 CFR 1.136(a) ARE AVAILABLE.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ruth A. Davis whose telephone number is 571-272-0915. The examiner can normally be reached on M-H (7:00-4:30); alt. F (7:00-3:30). If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Wityshyn can be reached on 571-272-0926. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Ruth A. Davis; rad
July 23, 2004.

LEON B. LANKFORD, JR.
PRIMARY EXAMINER